

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

NATHAN WOHLRABE,

Plaintiff,

v.

Case No. 24-cv-1407-bhl

CHARLES BROWN,

Defendant.

SCREENING ORDER

Plaintiff Nathan Wohlrabe, who is currently confined at the Mendota Mental Health Institute and representing himself, filed a complaint alleging that his civil rights were violated. On November 8, 2024, Wohlrabe paid the \$405 civil case filing fee. This matter comes before the Court for screening of the complaint.

SCREENING OF THE COMPLAINT

The Court has a duty to review any complaint in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity and must dismiss any complaint or portion thereof if the prisoner has raised any claims that are legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A(b). In screening a complaint, the Court must determine whether the complaint complies with the Federal Rules of Civil Procedure and states at least plausible claims for which relief may be granted. To state a cognizable claim under the federal notice pleading system, a plaintiff is required to provide a “short and plain statement of the claim showing that [he] is entitled to relief.” Fed. R. Civ. P. 8(a)(2). It

must be at least sufficient to provide notice to each defendant of what he or she is accused of doing, as well as when and where the alleged actions or inactions occurred, and the nature and extent of any damage or injury the actions or inactions caused.

“The pleading standard Rule 8 announces does not require ‘detailed factual allegations,’ but it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). “The tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Id.* A complaint must contain sufficient factual matter, accepted as true, to “state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* at 556. “[T]he complaint’s allegations must be enough to raise a right to relief above the speculative level.” *Id.* at 555 (internal quotations omitted).

ALLEGATIONS OF THE COMPLAINT

Wohlrabe seeks “relief from the personal injury of libel[.]” According to Wohlrabe, Defendant Charles Brown, who works at the Clement J. Zablocki Veterans Affairs Medical Center, submitted a victim impact statement in *Wisconsin v. Wohlrabe*, Case No. 2022CF003428, stating that he felt that “the honor of the US Military Veteran had been tarnished by Mr. Wohlrabe’s actions” Dkt. No. 1.

THE COURT’S ANALYSIS

“To state a claim for relief under 42 U.S.C. §1983, a plaintiff must allege that he or she was deprived of a right secured by the Constitution or the laws of the United States, and that this

deprivation occurred at the hands of a person or persons acting under the color of state law.” *D.S. v. E. Porter Cty. Sch. Corp.*, 799 F.3d 793, 798 (7th Cir. 2015) (citing *Buchanan–Moore v. Cty. of Milwaukee*, 570 F.3d 824, 827 (7th Cir. 2009)). Wohlrabe asserts that he is “suing for violation of federal law under 28 U.S.C. §1331,” but it is well settled that, “[a] claim of ‘libel’ is a sub-species of defamation,” which is a “*state-law* claim,” not a federal-law claim. *Green v. Noble*, No. 21-cv-615-pp, 2022 WL 656877, at *8 (E.D. Wis. March 4, 2022) (emphasis in the original). “The Constitution does not forbid libel, and no species of defamation deprives a person of h[is] liberty protected under the Due Process Clause.” *Id.* (citations omitted); see *Siegert v. Gilley*, 500 U.S. 226, 233-34 (1991).

Given that established precedent forecloses a federal claim for libel, this action must be dismissed. See *United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014). And although courts generally permit civil plaintiffs at least one opportunity to amend their pleadings, the Court need not do so where the amendment would be futile. *Runnion ex rel. Runnion v. Girl Scouts of Greater Chi. & Nw. Ind.*, 786 F.3d 510, 520 (7th Cir. 2015). No set of facts would give the Court jurisdiction over the claim for which Wohlrabe seeks relief, so it would be futile to allow him an opportunity to file an amended complaint.

IT IS THEREFORE ORDERED that this action is **DISMISSED** for failure to state an actionable federal claim.

IT IS FURTHER ORDERED that the Clerk of Court enter judgment accordingly.

Dated at Milwaukee, Wisconsin on November 18, 2024.

s/ *Brett H. Ludwig*

BRETT H. LUDWIG
United States District Judge

This order and the judgment to follow are final. Plaintiff may appeal this Court's decision to the Court of Appeals for the Seventh Circuit by filing in this Court a notice of appeal within **30 days** of the entry of judgment. *See* Fed. R. App. P. 3, 4. This Court may extend this deadline if a party timely requests an extension and shows good cause or excusable neglect for not being able to meet the 30-day deadline. *See* Fed. R. App. P. 4(a)(5)(A). If Plaintiff appeals, he will be liable for the \$605.00 appellate filing fee regardless of the appeal's outcome. If Plaintiff seeks leave to proceed *in forma pauperis* on appeal, he must file a motion for leave to proceed *in forma pauperis* with this Court. *See* Fed. R. App. P. 24(a)(1). Plaintiff may be assessed another "strike" by the Court of Appeals if his appeal is found to be non-meritorious. *See* 28 U.S.C. §1915(g). If Plaintiff accumulates three strikes, he will not be able to file an action in federal court (except as a petition for habeas corpus relief) without prepaying the filing fee unless he demonstrates that he is in imminent danger of serious physical injury. *Id.*

Under certain circumstances, a party may ask this Court to alter or amend its judgment under Federal Rule of Civil Procedure 59(e) or ask for relief from judgment under Federal Rule of Civil Procedure 60(b). Any motion under Federal Rule of Civil Procedure 59(e) must be filed within **28 days** of the entry of judgment. Any motion under Federal Rule of Civil Procedure 60(b) must be filed within a reasonable time, generally no more than one year after the entry of judgment. The Court cannot extend these deadlines. *See* Fed. R. Civ. P. 6(b)(2).

A party is expected to closely review all applicable rules and determine, what, if any, further action is appropriate in a case.